

Although support was previously argued for elements of the claims, to fully address Examiner's comprehensive rejection, the present case is being filed, thereby affording further detailed analysis and comments.

Herein, claim elements or paragraphs of the claims are treated below, one-by-one along with the rejections entered in the parent case. However, a few further preliminary comments are deemed to be appropriate.

The application discloses several specific embodiments of systems serving a wide variety of different, but related illustrative process functions. On the other hand, the disclosure of the Marshall patent specification is directed specifically to a single system for processing data from a "travel card" (a form of credit card) to accomplish and enable a telephonic connection so long as the processing indicates approval. However, a very important consideration is the fact that, the claims of the Marshall patent are not so restricted in scope.

It is recognized that Applicant does not precisely teach the specific detailed system of the Marshall patent. However, based on the test of enabling "a person skilled in the art" to "make and use" (35 USC 112) the following analysis will establish that Applicant does disclose the system as defined by the Marshall claims, element by element, and feature by feature. The precise detail of the Marshall specification embodiment may not be disclosed, but the claim elements certainly are taught.

As a further consideration related hereto, although Applicant's arguments, previously asserted, are not repeated in detail here, it is respectfully submitted that they are sound and are to be preserved.

At the outset, consider claim 29 which is treated comprehensively below in an outline form with detailed references, to Applicant's specification (Spec), to Marshall (ML), and to the final office action (OA) in the parent case.

I. Analysis of claim 29.

A. The Preamble (Intro.)

1. Key Language:

“---system of a type controllable by ---- cards”

2. Comment:

The language generally indicates a type of system, specifically, “of a type controllable by cards.” The language does not specify that the telephone system is controllable by cards, but rather specifies merely that the system be of a type controllable by cards.

Aside from specifying the general form of the claimed system the preamble merely states the purpose of the invention and is not considered a limitation (see MPEP 2111.02). However, note that Applicant's system does in fact disclose the use of cards for the very purpose of processing transactions, e.g. credit (Spec: P12, L1; P22, L22, L32, L34; P23, L1; P25, L21; P29, L2; P35, L14).

The Marshall '636 patent specification merely mentions a “travel card” which functions to support credit transactions (ML col. 1, line 29). At most, the preamble of the claim implies a telephonic system controlled in accordance with credit considerations and may involve a form of card. Applicant's specification expressly describes using the system along with a “credit card” (Spec P21, L22). Accordingly, Applicant's system clearly discloses a “telephone system of a type controllable by cards.”

3. The Rejection.

The rejection in the parent case (O/A mailed 7/24/2002) asserted an implication that a required card must be of a type “to enable a caller to place long distance calls over any telephone and to charge the call to the account of the account holder.” (OA, page 2)

Respectfully, such a claim limitation simply cannot be read into the preamble. Subsequent language of the claim may raise related questions as treated below. However, the preamble of the claim should be interpreted in accordance with the authorities mentioned in the referenced MPEP section, which would involve no such limitations. Note that Applicant’s specification discloses completing a call, as to the terminal IT (Spec P10, L34; P21, L8-12).

B. The “switching station” Recitation (claim ¶1).

1. Key Language:

“--- a switching station including a switch processor --- and a switching computer---.”

2. Comment:

The claim element simply recites the presence of a “switching station” which includes a “switch processor” and a “switching computer.” The structures are stated to be respectively capable of receiving call data and processing call data; however beyond that the claim recitation is silent.

The recited structures are clearly present in Applicant’s processing system P1 of FIGURE 1. Specifically, the structure is described as the processing system P1 (“processing system”) which includes the interface 20 and the switch 21 (“switch processor”) and the processor, e.g. PR1 (“switching computer”), see Spec P8, L1-3. Considering the

structure in greater detail, the processing unit 92 (FIGURE 4) performs the functions of a “switching computer means,” (Spec: P19, L12, L20, and 29). As disclosed, the switch 21 accommodates connection to data processing systems from incoming lines (Spec P8, L7-9; and P9, L17).

3. The Rejection

As stated above, in Applicant’s disclosed system, a number of different functional operations may be accommodated. For example, a simple telephonic connection may be accomplished from a caller to the Interface Terminal, (Spec P10, L31-35).

While it is recognized that Applicant’s various embodiments do not specifically describe a detailed operation of enabling: “a caller to place long distance calls over any telephone---” (emphasis added) as mentioned in the Office Action (OA page 2, paragraph 2) neither does the claim so specify. Consequently, Applicant’s disclosure clearly supports the claim 29, as further treated in a section below.

Note that the “switching computer” as specified in the claim is embodied in the processors. Operating with the switch 21 (Fig. 1) a detailed form of the processor PR1 is shown in FIGURE 4. Note that the processing unit 92 (in the processor PR1) has access to a memory 98 and a qualification unit 93.

C. The Control Recitation (claim ¶2)

1. Key Language:

“---said switching computer means controlling said switch processor---
automatic number identification---personal identification---.”

2. Comment:

The control operation is accomplished in Applicant's system by providing the appropriate format for controlling the desired processing of data; see Spec P12, L25.

Accordingly, the processor PR1, for example, works with the interface 20 to cue for (and receive) call data. Regarding automatic number identification data (ANI); see Spec P12, L31; P25, L8, L15; P36, L1; P39, L5; P42, L20. Note that the claim recitation of "supplying processed data from switching computer means to the switching station" must be interpreted simply to state that the data is available, because the switching computer is actually in the switching station.

Several forms of identification are disclosed in the specification which might be treated as a personal identification number in the context of the '636 patent. In that regard, note that disclosed identifications include a credit card number (Spec P22, L22); a "customer number" (Spec P22, L21); a "personal identification number" (Spec P33, L9); a key number (Spec P35, L20) or a "driver's license number" (Spec P37, L15).

3. The Rejection.

Apparently support for recitation of the disclosure was not questioned.

D. The "communication means" Call Data Recitation (Claim ¶3)

1. Key Language:

"--- communication means capturing call data --- received by said switch processor ---."

2. Comment:

The interface 20 (Fig. 1) incorporates structure for receiving call data.

3. The Rejection.

Apparently support for the recitation was not questioned.

E. The Processing Call Data Recitation (Claim ¶4)

1. Key Language:

“---parameter related to a card---processing call data---good standing---.”

2. Comment:

The expression “parameter related to the card” is applicable to the numerous references in Applicant’s specification to a card or ticket. The related parameters and provision of card and its related data appear in relation to credit cards, for example, see Spec P22, L1. In Applicant’s system, received call data is clearly supplied to a processor PR1-PRn (“switching computer means”) and processed as described in Applicant’s specification (Spec P13, L10).

3. The Rejection.

Apparently support for the recitation was not questioned.

F. The Disallowing Recitation (Claim ¶5)

1. Key Language:

“switching computer means capable of disallowing.”

2. Comment:

In the Marshall system, connections to the PC 32 (computer) allow it to test for approval of an operation (ML Col 6, L62 – Col 7, L23).

Similarly in Applicant’s specification, connections to the processors, e.g. processor PR1 (Fig. 1) allow it to test for approval (“qualification”) (see Spec P42, L12). As

stated in Applicant's specification, callers are qualified, and if approved, may experience the completion of a call, for example to the interface terminal IT (See Spec P10, L24; P19, L26-34).

In both systems, a computer or processor tests data for approval. It is only after such approval that the caller is allowed to complete the call. As disclosed in Applicant's specification, the memory 98 (FIGURE 4) provides reference data to the processing unit 92 (switching computer means component) which operates with the qualification unit 98 to determine whether or not a caller is approved, i.e. "in good standing."

3. The Rejection.

Calls are qualified or allowed in both Marshall's and Applicant's system after testing. Marshall may involve a completion to communication with a remote phone (ML Col 4, L9). However the claim does not so state. Rather the claim simply specifies determining if a caller is in "good standing." Clearly Applicant's system so teaches (Spec P19, L27; P22, L25; P30, L7; P42, L28-35). Though a caller has access to the computer before qualification, it is only after qualification that the call is allowed to be completed.

Clearly the determination of entitlement (Spec P19, L34) equates to the claim language of approval and the opposite operation of disallowing. Note that in the various functional aspects of Applicant's system, denied access (Spec P42, L35) is the same as "disallowing completion of a call" (Spec P13, L28-31; P17, L24).

In both Marshall's and Applicant's systems, preliminary processing determines qualification or approval. With such approval or qualification a call is allowed to be completed. Such completion may involve various functions. That is, the claim does not specify the nature of a "completed" call. Clearly, "completion" of a call is not restricted to a call through a telephone system (OA P4) or for connection with a remote terminal. Rather, the "completion"

of a call may involve obtaining billing information (ML Col 7, L49) or learning the “current billings attributed to a certain sales person (ML Col 7, L56) or “access” to a computer (ML Col 7, L58). Accordingly, the breadth of the claim is submitted to embrace the functions of Applicant’s disclosure as simply, any “information acquisition phase” (Spec P3, L7).

G. The Interrupting and Terminating Recitation (Claim ¶7)

1. Key Language:

“switching computer means capable of interrupting and terminating ---if--- the available account status of the card has been reached---.”

2. Comment:

A key paragraph in Applicant’s specification concisely states this functional recitation. Specifically the operation simply involves monitoring for further control. Responsively, there is Applicant’s teaching, e.g.: “an alternative to subsequent processing, the system may inform callers of their success during the course of the interface telephone call.” (Spec P40, L27-29). Thus, the process may be terminated depending on the caller’s status.

3. The Rejection.

Apparently support for the recitation was not questioned.

Turning now to the other claims, the dependent claim 31 involves failed attempts to enter with a time allocation. The system aspect is disclosed in Applicant’s specification (Spec P13, L20-31) with reference to Figure 3. Thus, support is present for the claim 31. Also see Spec P36, L35.

The dependent claim 32 involves the provision of billing information as stored. Supporting disclosure is found in Applicant's specification, specifically see Spec P34, L19 and P40, L14.

The dependent claim 33 also involves account status, however, is specific to oral reporting to a caller as taught by Applicant's system (Spec P9, L9; P12, L30).

The dependent claim 35 involves a buffer and capability to capture call data from the switch. Applicant's system captures data extensively as illustrated in Figures 2, 5 and 7. For example, see Spec P13, L7.

The dependent claim 36 further recites an electrical connection for the specified communication. Applicant's interface 20, switch 21 (Figure 1) and line 91 (Figure 4), see Spec P19, L11 provides such a connection.

Regarding the dependent claim 37, reciting a port, see the fifty ports extending to the processors PR1-PRn (Figure 1). See Spec P31, L4.

The independent claim 38 is a process form of the claim 29 which is treated in detail above. Specifically, the method of claim 38 is parallel to the apparatus of claim 29 as charted below. Accordingly, support for the steps of claim 38 coincides to that of the related elements.

| | Claim 29 | | Claim 38 |
|--------------|-----------------------------|--------------|---------------------------------|
| Introduction | "cards" | Introduction | "cards" |
| ¶1 | "switching station" | ¶1 | "switching station" |
| ¶2 | "computer---controlling" | | implied |
| ¶3 | "ANI" and "PIN" | ¶2 | "ANI" and "PIN" |
| ¶4 | "call data to --- computer" | ¶3 | "captured data to --- computer" |

| | | | |
|----|--------------------------------------|----|--------------------------------------|
| ¶5 | “card” “parameter” and “standing” | ¶4 | “card” “parameter” and “standing” |
| ¶6 | “disallowing” | ¶5 | “placed and continued” |
| ¶7 | “interrupting” | ¶6 | “preventing” (disallow) |
| | | ¶7 | “preventing cont.” (interrupt) |

The independent claim 39 is similar to claim 29 except for the deleted references to a card. That is, the claim 39 is asserted as a “back stop” for a holding that the recitations of a “card” or a “travel card” or “parameters for a card” constitute material claim limitations. Such a holding would be contrary to Applicant’s position herein; however, in such an event, the claim 39 indicates the substance of claim 29 based simply on “identification data” independent of a card reference. Accordingly support is as set out above for the claim 29.

In a similar manner, the remaining dependent claims relate to earlier treated claims as follows:

| <u>card claim</u> | <u>independent data claim</u> |
|-------------------|-------------------------------|
| 31 | 41 |
| 32 | 42 |
| 33 | 43 |
| 35 | 45 |
| 36 | 46 |

The method claim 48 is similarly a "non-card" indication directed to the substance of the method claim 39.

In view of the present form of the claims, and the comments now of record herein, reconsideration is respectfully requested with a view toward claim allowance.

To affirm the record of parent applications, Applicant indicates U.S. Patent 5,790,636, Marshall with which an interference is sought. Applicant identifies claim 29 as a proposed count which corresponds to claim 1 of the Marshall patent. The terms and elements of the claim are applied above. However, note that the adjective "travel" for the noun "card" (present in Marshall's claim 1) has been deleted. The change is deemed to be, not substantial.

Respectfully submitted,

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By: 

Reena Kuyper
Reg. No. 33,830

9220 Sunset Blvd., Suite 315
Los Angeles, California 90069
(310) 247-2860

VERSION WITH MARKINGS TO SHOW CHANGES MADE:

Amended Paragraph on page 10, last paragraph, to page 11, line 6 of the specification:

Either during the data accumulation phase, or after the processing phase to isolate a subset, a distinct operation may involve actuating the interface terminal [TI] IT for direct local communication between the caller and an operator at the terminal [TI] IT. Another distinct operation may involve actuation of the printer PR to provide documents in relation to the operating format, as for providing award certificates as for verifying members of an isolated subset. Also, charge slips may be generated containing at least part of the data of a particular transaction.

Amended second paragraph on page 17 of the specification:

In the event that a caller cannot confirm his acknowledgment digits, as indicated by the block 76, a repeat operation is performed as indicated respectively by the blocks 86 and 88. Specifically, the voice generator is queued for a second instructional message. In the event that the second attempt also fails, the data is purged and the call discounted as indicated by block [90] 93 and an exit block 92. If the second try is successful (test block 88), as indicated by the block 80, the record is perfected as indicated above.

IN THE CLAIMS:

29. (Twice Amended) A telephone system to interact with callers in dial-up communication and of a type controllable by data related to cards, comprising:

a switching station including a switch processor capable of receiving call data from at least one dial-up communication source and a switching computer means capable of processing call data;

said switching computer means controlling said switch processor;

communication means capable of capturing call data received by said switch processor, said call data including automatic number identification and a personal identification number;

said communication means capturing call data at front side of the call data received by the switch processor and supplying said call data to the switching computer means, and capable of supplying processed data from switching computer means to the switching station;

said switching computer means capable of obtaining data for at least one parameter related to a card in addition to said call data for the switching computer means to act upon in processing call data and determining from said data from the front side of the call data and additional parameter whether the attempted call is placed by a caller in good standing in accordance with parameters for the card;

said switching computer means capable of disallowing completion of a call through the switching station if determined from processing of call data and additional parameter by the switching computer means that the call is not placed by a caller in good standing; and

said switching computer means capable of interrupting and terminating said call in progress through the switch processor if said switching computer means determines by

data processing that the available account status of the travel card has been reached during the call.

31. (Twice Amended) The telephone system of the type controllable by data related to cards as described in claim 29, wherein said switch computer means performs a repeated failed attempts determination and directs the switching station through the communication means to prevent repeated attempts to enter the telephone system from a particular dial-up communication source by using a series of invalid personal identification numbers **[with]** within a predetermined period of time.

32. (Twice Amended) The telephone system of the type controllable by data related to cards as described in claim 29, further comprising monitoring computer means electrically connected to said switching computer means and capable of storing call data, and a data storage server means electrically connected to the monitoring computer means and capable of access by card customers of the telephone system to provide current billing information to card customers.

33. (Twice Amended) The telephone system of the type controllable by data related to cards as described in claim 29, further comprising a voice response means being capable of communication with said switching computer means and in dial-up communication with callers to the telephone system, and capable of providing an oral report of current account status to card users.

35. (Twice Amended) A telephone system of the type controllable by data related to cards as described in claim 29 wherein the switching station includes in addition an internal buffer capable of at least temporarily storing call data received by the switch processor, a conductor means capable of providing electrical communication of all call data from the switch processor to the buffer, and said communication means captures call data transparent to call data transfer from the switch processor to the internal buffer.

36. (Twice Amended) A telephone system of the type controllable by data related to cards as described in claim 35 wherein said communication means is electrically connected to such conductor means.

37. (Twice Amended) A telephone system of the type controllable by data related to cards as described in claim 29 wherein the communication means includes a port in the switch processor.

38. (Twice Amended) A method of handling telephone calls in dial-up communication by use of data related to cards, comprising the steps of:

providing a switching station including a switch processor for receiving call data from at least one source capable of dial-up communication with said switch processor by use of a card and a switching computer means for processing call data received by said switch processor;

capturing call data received by said switch processor, said call data transmitted at dial-up including automatic number identification and a personal identification number;

delivering at least some captured data to said switching computer means;

supplying to said switch computer means at least one additional parameter related to the card to determine good standing;

processing in the switching computer means call data in relation to the received additional parameter data to determine if calls are placed and continued in good standing;

preventing connection of telephone calls if validation determines the call is not made by a caller in good standing; and

preventing continuation of telephone calls if validation determines the call is not continuing in good standing.

39. (Amended) A telephone system to interact with callers in dial-up communication and of a type controllable by identification data, comprising:

a switching station including a switch processor capable of receiving call data from at least one dial-up communication source and a switching computer means capable of processing call data;

said switching computer means controlling said switch processor;

communication means capable of capturing call data received by said switch processor, said call data including automatic number identification and a personal identification number;

said communication means capturing call data at the front side of the call data received by the switch processor and supplying said call data to the switching computer means, and capable of supplying processed data from the switching computer means to the switching station;

said switching computer means capable of obtaining data for at least one parameter related to the identification data in addition to said call data for the switching computer means to act upon in processing call data and determining from said data from the front side of the call data and additional parameter whether the attempted call is placed by a caller in good standing in accordance with parameters associated with the identification data;

said switching computer means being capable of disallowing completion of a call through the switching station if it is determined from processing of the call data and the additional parameter by the switching computer means that the call is not placed by a caller in good standing; and

said switching computer means being capable of interrupting and terminating said call in progress through the switch processor if said switching computer means determines by data processing that the available account status associated with the identification data has been reached during the call.

41. (Amended) The telephone system to interact with callers in dial-up communication and of the type controllable by identification data as described in claim 39, wherein said switch computer means performs a repeated failed attempts determination and directs the switching station through the communication means to prevent repeated attempts to

enter the telephone system from a particular dial-up communication source by using a series of invalid personal identification numbers with a predetermined period of time.

42. (Amended) The telephone system to interact with callers in dial-up communication and of the type controllable by identification data as described in claim 39, further comprising monitoring computer means electrically connected to said switching computer means and capable of storing call data, and a data storage server means electrically connected to the monitoring computer means and capable of access by customers to the telephone system to provide current billing information to customers.

43. (Amended) The telephone system to interact with callers in dial-up communication and of the type controllable by identification data as described in claim 39, further comprising a voice response means being capable of communication with said switching computer means and in dial-up communication with callers to the telephone system, and capable of providing an oral report of current account status card users.

45. (Amended) A telephone system to interact with callers in dial-up communication and of the type controllable by identification data as described in claim 39 wherein the switching station includes in addition an internal buffer capable of at least temporarily storing call data received by the switch processor, a conductor means capable of providing electrical communication of all data from the switch processor to the buffer, and said communication means captures call data transparent to call data transfer from the switch processor to the internal buffer.

46. (Amended) A telephone system to interact with callers in dial-up communication and of the type controllable by identification data as described in claim 45 wherein said communication means is electrically connected to such conductor means.

47. (Amended) A telephone system to interact with callers in dial-up communication and of the type controllable by identification data as described in claim 39 wherein the communication means includes a port in the switch processor.

48. (Amended) A method of handling telephone calls in dial-up communication by use of identification data, comprising the steps of:

providing a switching station including a switch processor for receiving call data from at least one source capable of dial-up communication with said switch processor by use of identification data and a switching computer means for processing call data received by said switch processor;

capturing call data received by said switch processor, said call data transmitted at dial-up including automatic number identification and a personal identification number;

delivering at least some captured data to said switching computer means;

supplying to said switch computer means at least one additional parameter related to the identification data to determine good standing;

processing in the switching computer means call data in relation to the received additional parameter data to determine if calls are placed and continued in good standing;

preventing connection of telephone calls if validation determines the call is not made by caller in good standing; and

preventing continuation of telephone calls if validation determines the call is not continuing in good standing.